

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Joy Almeyda	Team: Squad #1	CCRB Case #: 201506367	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 07/30/2015 7:00 PM	Location of Incident: § 87(2)(b)	Precinct: 49	18 Mo. SOL 1/30/2017	EO SOL 1/30/2017	
Date/Time CV Reported Mon, 08/03/2015 9:31 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 08/03/2015 9:31 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Jeremy Grossman	31741	952812	049 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Shamrat Akanda	13319	943809	049 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jeremy Grossman	Abuse: PO Jeremy Grossman stopped § 87(2)(b)	§ 87(2)(b)
B.POM Jeremy Grossman	Abuse: PO Jeremy Grossman questioned § 87(2)(b)	§ 87(2)(b)
C.POM Jeremy Grossman	Abuse: PO Jeremy Grossman searched § 87(2)(b)	§ 87(2)(b)
D.POM Jeremy Grossman	Abuse: PO Jeremy Grossman frisked § 87(2)(b)	§ 87(2)(b)

## Case Summary

On July 30, 2015, at approximately 7:00 p.m., § 87(2)(b) was walking towards his home, located at § 87(2)(b) in the Bronx, after frequenting a Dunkin Donuts approximately ten blocks away. Approximately 30 minutes prior to going to the Dunkin Donuts that day, § 87(2)(b) smoked a single marijuana joint in his apartment. When § 87(2)(b) went to Dunkin Donuts he was wearing an undershirt and shorts. § 87(2)(b) was carrying a knife and a small bag of marijuana, approximately one joint's worth, in his front right pants pocket. While walking home from Dunkin Donuts, § 87(2)(b) was joined by an acquaintance known to him only by the street name of "§ 87(2)(b)". As § 87(2)(b) and § 87(2)(b) were walking, § 87(2)(b) picked up a branch approximately 18" inches long that had been lying on the sidewalk, and began to walk with it.

§ 87(2)(b) who suffers from permanent brain damage as a result of head trauma he sustained in 1994, frequently walks with a cane and a portable chair. On this day however, he was walking with neither, and was using the branch as a walking stick. As § 87(2)(b) and § 87(2)(b) were walking, § 87(2)(b) began to twirl the branch in the air. § 87(2)(b) denied swinging the branch at anyone or anything, and did not hit anyone or anything with the branch.

Upon reaching § 87(2)(b), approximately one block away from § 87(2)(b)'s home, PO Jeremy Grossman and PO Shamrat Akanda of the 49<sup>th</sup> Precinct exited their car and approached § 87(2)(b). As the officers approached § 87(2)(b) § 87(2)(b) walked away from § 87(2)(b) and did not have any interaction with either officer. PO Grossman stopped § 87(2)(b) and asked him what he was doing with the branch, and where he got it from, (**Allegations A and B**). § 87(2)(b) asked why he was being stopped, to which PO Grossman stated that he stopped § 87(2)(b) because he was twirling the branch in a dangerous manner. PO Grossman then told § 87(2)(b) that he was going to frisk him, and asked § 87(2)(b) if he had anything on his person that he should not have. § 87(2)(b) replied that he had a knife in his front right pocket. PO Grossman then reached into the front right pocket, where he removed the knife and small amount of marijuana (**Allegation C**). After removing the knife and marijuana, PO Grossman patted down the exterior of § 87(2)(b)'s waistband and pants (**Allegation D**). PO Grossman then issued § 87(2)(b) a summons for § 87(2)(b) respectively (See Board Review #7 ). After issuing the two summonses to § 87(2)(b) PO Grossman and PO Akanda walked away and resumed patrol. § 87(2)(b) was not arrested during this incident.

## Mediation, Civil and Criminal Histories

- On August 4, 2015, § 87(2)(b) rejected mediation, § 87(2)(b)
- On August 31, 2015, a FOIL request was filed with the Office of the NYC Comptroller regarding whether a Notice of Claim has been filed in connection to this incident and came back with negative results.
- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint filed by § 87(2)(b) (See Board Review #4).
- PO Jeremy Grossman has been a member of the service for three years, and this is the first complaint against him.

### **Potential Issues**

- § 87(2)(b) did not have any contact information for the male individual he identified by his street name as “§ 87(2)(b)”. In addition to not knowing “§ 87(2)(b)” “real name, or any of his contact information, § 87(2)(b) testified that § 87(2)(b) walked away as he was approached and then searched by PO Grossman, and did not believe that § 87(2)(b) witnessed the incident.
- § 87(2)(b) testified that while he was being stopped and searched by PO Grossman, a resident of his building whom he identified as § 87(2)(b) witnessed the entire incident. While § 87(2)(b) provided a telephone statement, she was uncooperative with the investigation, and failed to appear for two scheduled interviews without calling to cancel or reschedule. As a result, § 87(2)(b) did not provide a sworn statement regarding this incident.
- As mentioned above, § 87(2)(b) stated that he suffers from permanent brain damage as the result of being the victim of an assault from 1994. § 87(2)(b) also acknowledged smoking marijuana before this incident occurred.
- In his CCRB testimony, § 87(2)(b) alleged that this incident occurred at approximately 9:00 a.m. on July 30, 2015. The two summonses issued to § 87(2)(b) by PO Grossman indicated that the incident occurred at approximately 7:00 p.m. on July 30, 2015.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

- § 87(2)(b) stated that the officer, who wrote him the two summonses for § 87(2)(b), was also the officer who stopped, questioned, and searched him. § 87(2)(b) provided the undersigned with copies of the two summonses that were issued to him, both of which were issued by PO Jeremy Grossman of the 49<sup>th</sup> Precinct. PO Grossman acknowledged stopping, questioning, searching, and frisking § 87(2)(b) § 87(2)(g)

#### **Allegation A – Abuse of Authority- PO Jeremy Grossman stopped § 87(2)(b)**

#### **Allegation B – Abuse of Authority- PO Jeremy Grossman questioned § 87(2)(b)**

It is undisputed that PO Grossman and PO Akanda approached § 87(2)(b) after observing him walking on Van Nest Avenue while carrying and waving a branch.

§ 87(2)(b) alleged that he was using the branch, which he found on the ground and described as being approximately 18” inches long, as a walking stick. He acknowledged however, that while walking with the branch, he was waving it around in a manner similar to how a cheerleader waves around a baton. He denied swinging the branch at anyone or anything, and did not strike anyone or anything with the branch. § 87(2)(b) alleged that while walking in front

of 631 Van Nest Avenue, he was approached by PO Grossman who told him that they were stopping him because he was twirling the branch around in a dangerous manner.

PO Grossman testified that upon approaching § 87(2)(b) § 87(2)(b) dropped the branch on the ground. PO Grossman then asked § 87(2)(b) what he had been doing with the branch, and where he had gotten it from. PO Grossman alleged that § 87(2)(b) replied that he had gotten the branch from the park, and that he knew he should not be carrying it. PO Grossman described § 87(2)(b) as calm, and testified that he was compliant throughout their interaction. PO Akanda's testimony corroborated PO Grossman's.

According to Patrol Guide Procedure 212-11, an officer may stop someone and ask for an explanation of their conduct if they reasonably suspect them of engaging in a crime (See Board Review #3).

[REDACTED]

**Allegation C-Abuse of Authority – PO Jeremy Grossman searched § 87(2)(b)**

§ 87(2)(b) initially testified that after PO Grossman stopped him, he told § 87(2)(b) that he was going to search him. PO Grossman then allegedly placed his hands inside

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of § 87(2)(b)'s front pants pockets, at which point § 87(2)(b) told PO Grossman that he had a knife in his front right pants pocket. PO Grossman removed the knife, and a small bag of marijuana from § 87(2)(b)'s front right pocket.

In a follow-up phone statement, § 87(2)(b) alleged that PO Grossman patted down the exterior of his pants before placing his hands inside of both of his front pants pockets. He also stated that the knife and marijuana were in separate front pants pockets' and at the time in which they were removed, although § 87(2)(b) did not remember specifically which pocket contained the knife and which contained the marijuana.

PO Grossman testified that after he stopped § 87(2)(b) he told § 87(2)(b) that he was going to frisk him. Before frisking § 87(2)(b) PO Grossman asked § 87(2)(b) if he had anything on him that he should not have, and § 87(2)(b) replied that he had a knife in his front right pocket. PO Grossman then reached into § 87(2)(b)'s front right pocket, removed the knife, which he described as a small knife that was approximately 4 inches in length. In addition to removing the knife, PO Grossman removed a small bag of marijuana from the same pocket. PO Grossman denied searching any other of § 87(2)(b)'s pockets.

After retrieving the knife and marijuana from § 87(2)(b)'s front right pants pocket, PO Grossman patted down the exterior of § 87(2)(b)'s waistband, and pants leg area. PO Grossman testified that he frisked § 87(2)(b) after removing the knife from his person because he wanted to ensure that he did not have any additional weapons on him. He did not see any bulges on § 87(2)(b) or anything else to indicate that § 87(2)(b) might have another weapon on his person.

PO Akanda largely corroborated the testimony of PO Grossman; however he did not remember whether PO Grossman removed the knife and marijuana from the same pocket.

An officer may search a person when he has probable cause to believe the person has committed a crime or when a frisk reveals an object which could reasonably be mistaken for a weapon, *People v. Hill*, 569 N.Y.S 2d 227(1991-4<sup>th</sup> Dept.)(See Board Review #5).

According to Patrol Guide Procedure 212-11, an officer may conduct a frisk if they reasonably fear for their safety (See Board Review #3).

§ 87(2)(g)

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Squad:

Investigator: \_\_\_\_\_  
Signature Print Date

Squad Leader: \_\_\_\_\_

	Title/Signature	Print	Date
Attorney:	_____	_____	_____
	Title/Signature	Print	Date